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UNITED STATES
DEPARTMENT OF THE INTERIOR
Office of Indian Affairs
Washington

REGULATIONS GOVERNING THE CREATION OF TRUSTS
INVOLVING RESTRICTED PROPERTY OF INDIANS OF THE
FIVE CIVILIZED TRIBES IN OKLAHOMA.

(Approved June 2, 1933, amended March 19, 1935) (Sept. 14, 1935)

Sections 2 to 7 inclusive of the act of January 27, 1933, (Public No. 322, 72d Congress) authorize the Secretary of the Interior in his discretion to permit Indians of the Five Civilized Tribes to establish trust estates out of their restricted lands, moneys, or other properties, for the benefit of such Indians, their heirs or such other beneficiaries as they may designate, subject to certain conditions and limitations prescribed therein. The sections of the act referred to and a form of application blank to be used by the Indians desiring to avail themselves of the benefit of this law are appended hereto, and the following regulations are prescribed pursuant to the provisions of said act:

(1) Indians desiring to establish trust estates under the provisions of the said act must make written application therefor to the Secretary of the Interior through the Superintendent or other official in charge of the Five Civilized Tribes Agency, Muskogee, Oklahoma. The application shall designate the trustee, the beneficiary or beneficiaries and the manner in which it is desired the corpus of the estate shall be distributed upon the termination of the trust. A form of application will, upon request, be furnished by the said superintendent and should be filled out and executed in the presence of the Field Clerk or in the office of the superintendent and duly attested by the Field Clerk or some other Government employee. The information required by the form of application and such other information as may be requested concerning the Indian and his affairs shall be carefully considered by the Superintendent who will affix his recommendation to the application and forward it to the Secretary of the Interior with his report, which report shall contain full advice with respect to the education and business qualifications of the applicant, his ability to read, write and understand the English language, his reputation for industry and thrift and what experience, if any, he has had in a business way.

(2) The form of proposed trust agreement shall be executed by the trust company or banking institution selected as trustee, and shall be signed by and submitted with the application of the Indian, together with a statement in writing by said trust company or banking institution similar in form to that prescribed by the Comptroller of the Currency (or by the state banking department), showing fully the condition of said trust company or banking institution on a day not more than one month prior to the date of the application for the

creation of the trust. The agreement must also be accompanied by a written certificate duly executed by the trustee to the effect that it has not paid or promised to pay any person other than an officer or employee on its regular pay-roll any fee, charge, commission or remuneration for any service or influence in securing or attempting to secure for it the trusteeship in that or in other trusts to which these regulations apply.

(3). No such trust agreement will be favorably considered unless in the judgment of the Secretary of the Interior the trustee therein named is deemed by him to be on a sound financial basis and otherwise sufficiently qualified to justify approval of such trust. In addition to the subject matter of the trust, its objects and beneficiaries, duties of trustee, etc., the form of trust agreement shall contain provisions to the following general effect:

(a). That such of the current income from the corpus of the estate as may be payable to the Indians of the Five Civilized Tribes of one-half or more Indian blood shall be remitted by the trustee to the Secretary of the Interior or such other official as he may designate for appropriate disposition.

(b). That the trusts declared and each of them shall be irrevocable except with the approval of the Secretary of the Interior, but, subject to his approval, the beneficiaries named in any approved trust may be redesignated by the maker without in any manner otherwise impairing or altering any of the provisions thereof, particularly the duration of the trust or the compensation to be paid to the trustee.

(c). That neither the corpus of the trust estate nor the income derived therefrom is, during the restriction period provided by law, subject to alienation or incumbrance, or to the satisfaction of any debt or other liability of any beneficiary of such trust during the said restricted period.

(d). That if the trust be annulled, cancelled or set aside by order of any court or otherwise, the principal of the trust with all accrued and unpaid interest shall be returned to the Secretary of the Interior as restricted individual property.

(e). That the trustee shall render an annual accounting to the Secretary of the Interior and to the beneficiary or beneficiaries to whom the income from any such trust for the preceding year or any part thereof was due and payable, such annual accounting to be submitted within thirty days following the ending of each annual period of the trust, and the trustee shall render accounting to the Secretary of the Interior at any other time on written request by the Secretary of the Interior, within thirty days from such request.

(f) That except as to United States Government Bonds and other securities fully guaranteed by the Federal Government in which such funds in the hands of the trustee may be invested without limitations, the following limitations are prescribed on the right of the trustee to invest or reinvest any part of the corpus or income from the trust: (1) Not more than $33\frac{1}{3}$ percent of the value of the corpus of the trust estate may be invested in first mortgages on improved real estate up to 50 percent of the value of the real estate appraised not more than 30 days prior to the investment, such appraisal to be made by one or more appraisers selected with approval of the Secretary of the Interior; (2) Not less than $16\frac{2}{3}$ percent of the value of the trust estate, exclusive of real estate mortgages, shall be invested in such securities and properties as are approved in guardianship cases, by the courts of the state where the trustee is domiciled; (3) No part of the trust fund shall be invested in the purchase of real estate or stocks for the trust except to protect the trust estate in foreclosure or other proceedings; and (4) No part of the trust estate shall be invested in any kind of foreign securities, loans, or other properties, private or public. These limitations shall not be construed as authorizing or requiring a trustee to invest or reinvest any of such funds in any manner contrary to or in violation of any law of the state under which such trustee may be operating.

(4) In the formulation of the trust agreement and the provisions thereof the Superintendent for the Five Civilized Tribes Agency and the other employees under his supervision will upon request assist the Indian to the fullest possible extent to the end that he may understand fully the meaning and the intent of the agreement and make the most satisfactory provision for the formation and consummation of the trust agreement.

(5) Under the terms of the statute no trust shall be established to continue for a period of more than twenty-one years after the death of the last surviving beneficiary named in the trust agreement.

(6) To secure the faithful performance of the duties imposed by the trust agreement the trustee shall, as required by section 7 of the act, deposit securities of the United States or furnish an acceptable corporate surety bond in an amount equal to the value of the trust as fixed and determined by the Secretary of the Interior. Appraisers will be appointed by the Secretary for the purpose of fixing the value of the trust and of revising such value from time to time as the judgment of the Secretary may dictate. Additional or substitute security may be required at any time when deemed necessary for the protection of the trust estate and the interest of the Indians. Trustees pledging United States bonds or notes as security shall execute on forms prescribed by the Secretary an appropriate resolution and power-of-attorney authorizing the sale, assignment or transfer of the collateral.

Only those corporate sureties who hold certificates of authority from the Secretary of the Treasury to write bonds on which the United State is obligee are acceptable as sureties. The cost to the trustee, if any of furnishing the required bond, will be regarded as a necessary part of the cost of administering the trust and as such deductible from the gross income accruing therefrom.

(7) As compensation for administering the trust the trustee will be permitted to receive annually not to exceed five percent of the gross annual income from such trust estate, and as further compensation will also be permitted to receive not to exceed an amount equal to one percent of the corpus of the trust estate, to be paid out of the income first accruing therefrom, and not to exceed an amount equal to two percent of the corpus of the estate at the time of final distribution based upon the last valuation made by the Secretary of the Interior prior to such distribution. By final distribution is meant any distribution to a beneficiary of any part of the corpus of the trust estate at any time under the terms of the trust. All fees are to be based on the size of the trust and the nature of the duties to be performed thereunder. The foregoing percentage of fees are maximum and alternative, that is, within such maximum limitations any one or more of said fees may or may not be allowed within the discretion of the Secretary of the Interior.

(8) In addition to sections 2 to 7, inclusive, of the act of January 27, 1933, and the form of application by the Indians thereunder, there are also appended skeleton forms of trust agreement and bond, which forms are subject to such change as may be necessary to meet the requirements of each particular case.

(9) Not more than three million dollars aggregate value of restricted Indian property shall be placed in trust pursuant to these regulations with any one trustee, trust company or other banking institution authorized by law to act as a fiduciary.

(10) These regulations may be changed, amended, added to, and any part thereof eliminated at any time by the Secretary of the Interior.

APPROVED: March 19, 1935.

HAROLD L. ICKES,

Secretary of the Interior.